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**AUG 24 2017**

**HEALTH FACILITIES &  
SERVICES REVIEW BOARD**

August 21, 2017

Ms. Kathryn J. Olson  
Chairman  
Health Facilities and Services Review Board  
525 West Jefferson Street, 2nd Floor  
Springfield, Illinois 62761

Re: Fresenius Medical Care of Illinois: Project #17-023  
Letter in Opposition to Application for Permit

Dear Ms. Olson:

On behalf Fox Valley Medical Associates, Ltd. ("FVMA"), and its affiliates Fox Valley Dialysis, Ltd. ("FVD"), Yorkville Dialysis Center, LLC ("YDC"), and Tri-Cities Dialysis, LLC ("TCD," and together with FVD and YDC, are sometimes referred to herein as the "Affiliates"), we tender the following in opposition to the Fresenius Medical Care of Illinois, LLC's ("FMC's") Oswego project, project #17-023 (the "Project"), certificate of need application (the "Application").

We oppose the Project mainly as FMC in the Application does not meet service accessibility requirements, 77 Ill. Admin. § 1110.1430(c)(5)(A), as there is sufficient availability in underutilized dialysis facilities for patients to receive dialysis services within 30 minutes travel time from the proposed Project. When those additional facilities are taken into account, it demonstrates there is no immediate need to improve access for patients in this area and simply no demonstrable basis for the Project. In addition, FMC in the Application fails to disclose completely all of the underutilized dialysis facilities within 30 minutes travel time and thereby fails to meet Criterion 1110.230, 77 Ill. Admin. § 1110.230(c).<sup>1</sup> Finally, we submit that the Project is premature given that FMC's East Aurora facility is not yet operable and once operable it is likely to have a substantial impact on the distribution of FMC's dialysis patients.

There are seven dialysis facilities within a 30 minute travel radius of the Project. Those facilities include: (1) FMC - Sandwich; (2) FMC -

<sup>1</sup> That section requires an applicant to address alternative options, like utilizing other healthcare resources that are available to serve all or a portion of the population proposed to be served by the project.

Batavia; (3) FMC - East Aurora; (4) Fox Valley Dialysis in Aurora; (5) Tri-Cities Dialysis in Geneva; (6) FMC - Plainfield North; and (7) Yorkville Dialysis Center in Yorkville. While those facilities are in different HSAs, as depicted in Table 1 below, they are nevertheless within the 30 minute travel restriction from the Project and each is underutilized.

**Table 1 - Viable Alternatives: Distance & Utilization**

No.	Facility	Distance (miles)	MapQuest Travel Time (Minutes, Unadjusted)	MapQuest Travel Time (Minutes, Adjusted 1.15)	Stations	Utilization
1.	FMC - Sandwich	16.8	22	25.3	10	58.33%
2.	FMC - Batavia	13.0	25	28.75	12	70.83%
3.	FMC - East Aurora	13.5	23	26.45	12	0.00%
4.	Fox Valley Dialysis - Aurora	8.8	15	17.25	29	77.01%
5.	Tri-Cities Dialysis	15.2	28	32.2	20	55.00%
6.	FMC-Plainfield North	22	13.5	15.53	10	31.67%
7.	YDC - Yorkville	12	6.2	7.13	8	33.33%

Facilities providing in center hemodialysis should operate the dialysis stations at or above an average annual utilization rate of 80%, assuming three patient shifts per day per regional dialysis station

operated six days a week. 77 Ill. Admin. § 1110.630. While FMC attempts to justify its request to expand its Oswego facility by six stations to avoid operating a 4<sup>th</sup> shift, when you analyze the utilization rates of the seven viable alternative facilities neither an additional six stations in FMC Oswego nor the operation of a 4<sup>th</sup> shift there are needed. That becomes even more evident when you examine the patient capacity of each of those viable alternative facilities at 80% and 100% capacity as set forth in Table 2 below.

**Table 2 - Patient Capacity<sup>2</sup>**

No.	Facility	Additional Patient Capacity @ 80%	Additional Patient Capacity @ 100%
1.	FMC - Sandwich	13	25
2.	FMC - Batavia	7	21
3.	FMC - East Aurora	58	72
4.	Fox Valley Dialysis - Aurora	5	40
5.	Tri-Cities Dialysis	30	54
6.	FMC- Plainfield North	29	41
7.	YDC - Yorkville	<u>22</u>	<u>32</u>
<b>Total:</b>		164	285

As you can see, there is more than enough capacity within those viable alternative facilities to accommodate the projected referrals of 49 additional pre-ESRD patients by the Project's referring physician, Dr. Fakhruddin. Moreover, if you focus only on the patient capacity of FMC's dialysis facilities included in Table 2, within its own dialysis facilities at 80% capacity, collectively an additional 107 patients can be accommodated. Additionally, Dr. Fakhruddin has admitting privileges at Fox Valley Dialysis, and one of his partners, Dr. Dohdia, a referring physician in other FMC dialysis facilities identified in the tables above, has admitting privileges at Fox Valley Dialysis and Yorkville Dialysis Center. We invite Dr. Fakhruddin to obtain privileges at Tri-Cities

<sup>2</sup> Data, as of March 31, 2017, obtained on July 17, 2017, from George K. Roate, Reviewer, Illinois Department of Public Health, Office of Health Systems Development.

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Dialysis and Yorkville Dialysis Center, and invite Dr. Dohdia to obtain privileges at Tri-Cities Dialysis.


Among the purposes of the certificate of need program is to guarantee the availability of quality health care to the public and to avoid unnecessary duplication of facilities and services. 77 Ill. Admin. § 1100.30. The certificate of need program is not designed to ensure physician convenience by concentration of patients at convenient unit locations. The purpose of the certificate of need program is realized when underutilized services are identified and utilized.

Finally, as FMC's East Aurora facility is not yet operable, we believe that this Project is premature as the opening of FMC East Aurora is likely to have a substantial impact upon the distribution of FMC's dialysis patients. 17 or 24% of the current ESRD patients receiving treatment at FMC Oswego are from HSA 8. See Application, page 43. It is not inconceivable that upon the opening of FMC East Aurora that all or a good portion of all of those patients would prefer, for convenience, to obtain treatment at the East Aurora facility which is also in HSA 8. Hence, we believe the expansion of FMC Oswego is premature.

For the foregoing reasons, we urge the board to deny the Application.

Very truly yours,

FOX VALLEY MEDICAL ASSOCIATES, LTD.,  
on its behalf and on behalf of its Affiliates

By:   
Harry Rubinstein, M.D., President